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LAST DECISION IN LEO M. FRANK CASE IS
EXPECTED FRIDAY

**GOVERNOR SLATON
WILL**

**CLOSE CASE
WEDNESDAY**

Attorney Howard to
Conclude

His Argument,
Which He

Began Monday

Attorney William M. Howard, of Augusta, who is conducting Leo M. Frank's fight for a Commutation of Sentence to Life Imprisonment, began his Argument before Governor John M. Slaton at 2:45 o'Clock Monday afternoon and spoke until 6 o'Clock. At that hour, Governor Slaton adjourned the Hearing over until 9 o'Clock Wednesday morning, this being necessary because the Governor has an engagement to deliver the Alumni address Tuesday at the University of Georgia at Athens.

At 9 o'Clock Wednesday morning Attorney Howard will resume his Argument before the Governor and will probably speak for two or three hours. That will close Frank's Case and will close the Hearing. Attorney Howard in his Argument Monday afternoon showed complete mastery of the Frank Case. It was evident that he has made a minute study of the Record and has every detail of the testimony and the evidence at his finger tips.

Governor Slaton is utilizing every moment of his spare time to read and study the Record. He stated Monday afternoon, when he adjourned the Hearing over, that he would devote all his spare time to it while in Athens. It was plain from the Governor's frequent interruptions of Attorney Howard and Solicitor Dorsey, for the purpose of asking questions, that he is going into the Record with the same thoroughness that characterizes their grasp of all its details.

The probability is that Governor Slaton will announce his Decision on Friday or Saturday.

Attorney Howard's Argument Monday afternoon was as follows:

"On Saturday, your Excellency, after I concluded my remarks outlining the Case which we would make, ex-Governor Joseph M. Brown appeared before you in opposition to our Petition. At the

outset, I wish to admit in the fullest way possible that the distinguished ex-Governor was thoroughly within his rights as a Citizen, if he felt it his Civic Duty to appear before your Excellency and present whatever Arguments against Frank as appeared to be proper in his Judgment. But ex-Governor Brown in appearing in that role must stand on the Reasons presented by him just as any other man must stand, and when he undertakes to draw upon his own practices as Governor of Georgia to advise you, the sincerity of his purpose should be borne out by his practices. So when ex-Governor Brown undertook to argue from the Scripture, both old and new, and from the Constitution of the State, what the duty of the Governor is in a Case like this, and when he narrowed his contentions under the scope of the Constitution, he must be prepared to defend the limitations which he prescribes. If he does not, it is a matter which your Excellency is entitled to have brought to your attention.

“Ex-Governor Brown intimated that it would be an abuse of the pardon power and an abuse of the minor power of Commutation if this power should be exercised without extraneous or additional matter as justification therefor.”

BROWN’S PARDON RECORD.

“He argued that the exercise of the power under such circumstances should be very rare, and that the circumstances applying to this Case should have no standing whatever.”

“On June 18, 1913, which was nine days before Governor Brown went out of Office, he issued forty pardons; of which one was an attempt to Murder Case, one a Burglary Case, one a forgery Case, four were Robbery Cases, eight were Manslaughter Cases, and twenty-five were Murder Cases.”

“This, you will see, was quite a liberal dispensation of that grace invested in the Governor under our System, a dispensation which he would now deny to you, insisting that Justice and Justice alone should control.”

“Ex-Governor Brown misconceives the real meaning of the pardon power. It is a grant, a bestowal of mercy, which the Executive may in his discretion Exercise for the welfare of the people and the State. It comes down to us from the old English Law, which gave to the King the prerogative of pardon. The only difference is that in our Constitution this power cannot be exercised until after a person is convicted, whereas the King was empowered to exercise it before conviction. Under our System it is only after the ordinary processes of Law have been applied that the Governor is authorized to extend Executive Clemency. There can be no Application of pardon power until this result has been reached and reached in this way. The distinguished ex-Governor seems to overlook this Fact—the Fact that only after the Courts have finished with a Case can the Executive be asked for or bestow Clemency.”

“As I stated a moment ago, Ex-Governor Brown granted 25 pardons in 25 Murder Cases. There must inevitably have been 25 verdicts of guilt of Murder. And, yet, he set these verdicts aside, and I have not the slightest doubt that he acted properly in doing so. But what I wish to illustrate is that his own practice conflicts with the Rule which he now seeks to impose upon your Excellency.”

“Let us take the Lep Meyers Case from Bibb County. This was a Case where the Defendant was convicted of manslaughter and sentenced to 20 years. He had served one year. His sentence was commuted to Present Service on June 27, 1913, the day Governor Brown’s term of office expired.”

“The opinion of Governor Brown accompanying this Commutation is found on page 64 of the Commutation Book for 1913. It shows the following facts:”

“Case submitted in original testimony and Affidavits as to facts presented at the trial and on a letter from Judge Hawkins recommending Commutation to Present Service.”

“Governor Brown, however, based his opinion upon the Record, stating that the evidence showed that the Murder was committed in Self Defense and that the Jury undoubtedly would have so found if the deceased had been a man. The Case was never submitted to the Pardon Board, but was taken up by Governor Brown directly. There was no recommendation from the Jury or the Solicitor-General. Here we find Governor Brown injecting his own penetrative brain power into the mind of the Jury.”

“Then there is the Case of Wash Dean from Houston County. This was a Murder Case. Dean was commuted June 10, 1913. In Governor Brown’s opinion appears the following:”

““A review of the Record does not show any great provocation for the Crime, but it was evidently committed on impulse and under such circumstances as would easily justify a recommendation for the mercy of the Court. This view is concurred in by the Judge and the Solicitor-General.””

“Again, we find Governor Brown, notwithstanding the sanctity of the verdict, undertaking to put his own interpretation on what the verdict should have been, based on the Evidence, and changing the verdict to one which he thought, in justice and mercy, was justifiable.”

“There was the Case of J. W. Elliot from Troup County. Governor Brown bases his Commutation upon a recommendation

from Judge Beck and two of the Jurors. In this, as in other Cases mentioned, he goes into the Record."

"Governor Brown commuted the Sentence of Henry Harper on October 28, 1909, without a recommendation from the Prison Board or the Solicitor-General. His opinion was based upon evidence, not produced at the trial by the Solicitor-General, upon which, in his opinion, the Jury might have acquitted the Defendant."

"Now Governor Brown did allude to the old Jewish Law that you should not take a man's life where there was not more than one Witness against him. We are perfectly willing to abide by that Rule in this Case, but I insist that there shall be at least one. My brother Dorsey very ably has brought forward many isolated instances which, he says, constitute strands in a cord, which, if woven together, make a cable strong enough to hang anybody. Mr. Dorsey, however, has there given away this Case by arguing that with Conley eliminated the rest of these inferences make this cable strong enough to justify a verdict."

"In addition to the Proof of Corpus Delicti there must be sufficient circumstances to connect Frank with the Crime, not merely to cause suspicion against him. Take all of my brother Dorsey's admirable argument and he insisted that each act pointed to guilt. I will show you that no overt act of Leo M. Frank connects him with the Corpus Delicti. What does it matter that he was nervous when he learned of the Crime? What does it matter that he dreamed he heard a telephone? What matter that he asked for bread or coffee in the morning? What does it matter that he shuddered when he looked on the body? All of these things are perfectly compatible with the demeanor of an innocent man. My brother Dorsey even read guilt into a Telegram which he wrote. I tell you that Telegram was perfectly normal. He makes

the Fact, that Frank told, that the body was in the basement point toward his guilt. I tell you that the Telegram was to a man thoroughly familiar with the Factory and a Part Owner of the Business. It is but natural that he should describe the place where the body was found. (Mr. Howard's eye, as he referred to Mr. Dorsey's Argument, was directed most of the time toward Mr. Dorsey).

"Mr. Dorsey would have you believe the silence about the Crime in the Selig home was a proof of Frank's guilt. Yet the Record shows Mrs. Selig was ill and that the next day she was operated on, so naturally the family, in loving consideration for her feelings, refrained from any conversation that might tend to excite or prove harmful to her. When such a circumstance as that can be ignored by our indefatigable and ingenious Solicitor, and can be distorted into an evidence of guilt, what a pass we have come to."

At this point, Solicitor Dorsey objected to this Statement, declaring there was nothing in the Record about an Operation.

Mr. Howard picked up the Record and read from the evidence of Mrs. Selig in which she stated that Frank and the other members of the family spared her feelings that day, because she was ill, and expected to have an operation the next day and did have the operation.

Continuing, Mr. Howard said: "I say that you cannot touch a hair on Frank's head legally unless you couple him with this Murder, and that can only be done by the Murder Notes. But more of that later. Let's take another one of Mr. Dorsey's points.

"He says Frank employed Counsel while undergoing a Quasi Examination and that this was a point tending to show his guilt. As a matter of Fact, Luther Z. Rosser was sent to Police

Headquarters by friends of Frank and Frank had no knowledge that Rosser was employed until he walked in and claimed him as a Client and demanded that his Rights not be disregarded. Is that to be distorted into evidence of guilty? There are others, many others, that Mr. Dorsey has brought up, but all are to explained in the same manner and fashion."

"Take out Conley and the notes and see where we stand."

EVIDENCE GIVEN GOVERNOR.

At this point, Mr. Howard took up the Case with the finding of the body by Newt Lee and followed it with a vivid description of the body in the condition as shown by the testimony and the finding of the Murder notes. These he handed to Governor Slaton as the original, and handed him also a Memorandum Pad found near the notes.

"Now, the question naturally arises," he continued, "who wrote the notes? We ask that question because the man who wrote them had something to do, probably all to do, with the Murder. After some days, it developed that Conley wrote them, and this developed by his own Admission."

"Then investigation shows that the murdered girl was in Frank's Office that day. Conley's own Admission puts him in that same Locality. By his own Admission, she passed within ten feet of him. Now what is the evidence that points to a motive? We know that when she left Frank's Office, she carried a mesh bag containing \$1.20. We know that Conley could easily see her, that he was lounging within reach of her, and could have grabbed her mesh bag and choked off her screams. Now what manner of a man was it who had that advantage?"

"Conley described himself as 27 years old, a Ginger Cake Negro, living with a concubine; a gambler who had gamed that

morning. In addition, by his own Admission, he drank according to his Capacity to buy wine, whiskey and beer, and got a pint of whisky before he went to the plant that morning, presumably from a blind tiger. Was the criminal instinct there? In five years, he had been arrested seven times and had served as many Sentences, in expiation for Offenses against the municipality. In the Record, he says he was broke, that his wages were never sufficient for his necessities, that he would slink away on pay day to avoid his Creditors and have another Negro draw his wages. By his own testimony, he had even gone away on pay days through the back door of the basement."

"That is the character of the man who lurked there that morning—lecherous, lascivious, drunken, debauched. A gambler, a forger, a repeated convict. Broke, a holiday. Fired up with liquor. That was the kind of creature who crouched there when Mary Phagan came down the steps."

QUESTION THAT ARISES.

"The question now arises: Was he by nature, was he by the conditions surrounding him, was he essentially, a purse-snatching thief?"

"Now, mark you, that mesh bag containing money has never been found. The hat, the parasol, and other articles were found, but the mesh bag never. Because the mesh bag in his possession was proof conclusive of one of his Crimes—that of Robbery."

"The little girl was found with a bruise over one eye. I do not say, because the evidence does not say, how she got into the basement. We do not know how. But she got there, dead or alive. The story is related in these Murder notes, and they were written by Conley."

“Was there any other Crime? Does her body make proof of any other Crime? I say there are evidences there of Criminal Assault. Let us take the Record. Policeman Anderson, one of the first to view the body, testified at the inquest that there was blood on the underclothing and on the body. Police Sergeant R. J. Brown gave similar testimony. There was the description first hand by persons who first saw her, before anybody had any theories to knock down. Dr. Harris, the State’s own Witness, testified there were evidences of external violence. I went into that the other day and I won’t repeat it now.”

At this point, Governor Slaton interposed:

“But Dr. Hunt says he found no external evidences of violence.”

To which Mr. Howard replied:

“But, your Excellency, here is the Doctor who conducted a Post Mortem Examination, who worked and observed with all the skill that Science could command. Please bear in mind that he and his testimony were introduced by the State and he was the State’s Witness. He testified that evidences of violence were present, but said he would not undertake to say precisely how this violence was incurred.”

DR. HARRIS’ EVIDENCE.

Here, Mr. Howard went into a lengthy discussion of certain portions of Dr. Harris’ testimony of an unprintable nature concerning the condition of the body.

“Dr. Hunt testified,” he continued, “that the little girl’s organs were inflamed. What was supposed to have produced this condition? Mr. Dorsey argued that Frank was undertaking to Assault the girl in a perverted and unnatural way and that this

produced the condition described by Dr. Hunt. There was no evidence introduced to show that Conley was a pervert. The assumption was that if he had committed this Crime, he would not have proceeded in an unnatural way. The Solicitor's assumption was that only in an unnatural way would have Frank have committed an Assault. But other Doctors who testified, disagreed with Dr. Harris sharply that the internal violence (about which Dr. Harris testified) could have been produced by an unnatural Assault."

"Conley was not above committing that kind of a Crime. He answered it in his life. He answered it in his debasement. Who doesn't know that a Negro prizes above life debasement with a white person? Who knows better than an instinctive brute, even, the necessity for protecting himself from the fury of an outraged Community?"

"Consider the cord around the little girl's neck, which choked out her life. That cruelty was in keeping with the other two Crimes that preceded it."

"Would Frank have robbed her?"

"I will show you that neither was he the pervert, either physically or mentally which prompted the second Crime."

Here the Governor interrupted to inquire where it was the Record that Conley said Frank told him, while he was writing the notes, to rub out an "s" after "Negroes" and make the word read "Negro."

QUERY TO DORSEY.

The Governor addressed this query to Solicitor Dorsey.

The Solicitor replied that he could not point this out, saying Conley had stated that he wrote several notes.

The Governor remarked that he thought if this was true, the notes ought to bear the evidence of the erasure, and he held in his hand the original murder notes.

Resuming, Mr. Howard said:

“You will remember that for some time after his arrest Conley denied that he could write. Later we find that he can write. We tell him we know he can write. We tell him we know he can write, and we tell him to write what we dictate. When he sees that we knew his Secret, he reluctantly admits that he can write. When we dictate, we dictate parts of these notes, and when we fasten upon him his own handwriting it is the same as the handwriting of the murder notes.”

“Conley swore that the first note he wrote was the white one. (Mr. Howard picked up the two notes to use them in illustrating his remarks).”

“Yet anybody can see that the white note was written last, because of its sequence, and because the yellow note began at the top of the Paper and began with an address. It must be plain, therefore, to your Excellency, that Conley wrote the yellow note first and this white note second.”

“When he was confronted with the Fact, that his writing showed, that he wrote the murder notes, and was asked where he was on the Saturday of the Murder, he told a rambling story which put him everywhere except at the Pencil Factory. Later, he makes a change in his Statement. After a series of denials, after a series of prevarications, after a series of efforts to conceal his identity, he admits that he wrote the notes, but tries to put the blame on somebody else, claiming that he wrote one and Frank the other.”

FACTS ARE PRACTICAL.

“If Conley had been on trial and these Facts had been submitted to a Jury, what would the verdict have been? Here was the Corpus Delicti. There was the Criminal Assault. There was the Murder. There was the hand of the Murderer, shown in the Murder notes. With these circumstances submitted, can you say that a Jury, under the persuasive power of any Lawyer, would not find Conley guilty?”

“Every Fact I have brought to your attention is a practical, undisputed Fact, taken out of this Report. And against it is Conley, who says another man committed the crime; who says another man told him what to write; therefore, another man killed the little girl.”

“It is perfectly apparent that if Frank dictated the notes, they must be his Mental Act. If they are Frank’s Mental Act, then Frank is mentally and morally the Murder of Mary Phagan.”

“There is nothing remarkable or strange about one man being caught in a Crime and trying to lay it on another.”

“The brunt of this accusation started against Frank rather than against Conley. It began with a Grand Jury indictment, and it continued on to the trial. Frank was on trial—not Conley. Every effort of the State was to convict Frank. No effort of the State was to convict Conley.”

“To begin with, these notes are not the Mental Act of Frank, —because the thought, the expression, the language, are the thought, the expression and language of Conley, not of Frank.”

ASKS FOR INFORMATION.

Here Governor Slaton interrupted with a request for Solicitor Dorsey to ascertain by the Record if the desk (referred to in the Record) as in the basement when the Murder was committed. He

added that there was no hurry, since he could not decide the Case before Wednesday on account of being out of the City Tuesday.

Resuming, Mr. Howard said:

“Mr. Dorsey contended that the notes were not in the language of Conley because they used the word ‘did,’ whereas a Negro would have used the word ‘done.’ Mr. Dorsey pointed out other words which he claimed to be characteristic of an intelligent man. To get that correct, your Excellency only needs go to the Annie Maude Carter notes, which we have here. We are informed by Mr. Dorsey that Conley denies having written the portion of these notes that is vulgar. So for these comparisons, we may refer to those portions which are not vulgar.”

Mr. Howard then pointed out to the Governor a number of words in the Annie Maude Carter notes that are similar in spelling, use and writing to the same words in the Murder notes. After discussing the notes for a few minutes, Mr. Howard said:

“When Conley comes to defend himself, he starts out in his first Statement, which is given to the public, by contending that he was in no way connected with the Crime. Then he makes three other Statements in an effort to shift the circumstances of the Crime from his own shoulders to those of another man. All these go to show whether his Defense is in good faith and should be believed, and therefore whether the Crime should be taken from him and placed upon another.”

Here Mr. Howard read the fourth of Conley’s Affidavits made to the Detectives.

“CAREER OF PERJURY.”

Mr. Howard told the Governor, he would lead him through Conley's wonderful and merry career, of Perjury. He then pointed out dozens of inconsistencies in Conley's various Affidavits, beginning with that in which he swore Frank made him write the murder notes Friday before the Crime was committed Saturday. Before reading from the Affidavits, Mr. Howard read from Harry Scott's testimony at the trial, showing how the Detectives, according to Scott's own testimony, pointed out to Conley the irreconcilable features of his testimony and made him correct them.

"In the first Affidavit," said Mr. Howard, "Conley put himself as far away from the Crime as perjury could possibly take him. In nearly every Statement, Conley would show that he left the Factory with some small amount of money in his pocket, and that he did in order not to have it charged that he took Mary Phagan's \$1.20."

"In the Affidavit of May 21, Conley comes to the point where Mary has been killed, according to his testimony, but all through that narrative he has not mentioned seeing her. That is one of the many things which show the importance, and the significance of his schooling, by the Detectives."

As Mr. Howard progressed from Affidavit to Affidavit, each one more detailed and specific than its Predecessor, and each one approaching nearer the story that Conley told on the trial, he remarked:

"Such growth, such Development, such evolution, even under such excellent schooling, is marvelous. One of the troubles with this Case, is that too many people have fooled with it who don't know anything about the Negro."

CHANGED TESTIMONY.

Here Mr. Howard pointed out that in Conley's last Affidavit, he claimed to have carried the body on his shoulder from the elevator to the spot where it was found, whereas at the trial he realized that this was dangerous and said not a word about carrying it in this way.

"The trouble with Conley," said Mr. Howard, "is that he won't stand hitched from one swearing to the next."

Again, referring to Conley's last Affidavit, Mr. Howard pointed out to the Governor certain words written by hand at the close, in which Conley swore Frank took back the \$200.

"You see," said Mr. Howard, "that the Affidavit was finished, was complete, when somebody remembered that it would not do for Conley to be left in possession of \$200, because this amount of money would have to be accounted for, and Conley, apt scholar of Scott's school, fixed that to his own and the Detectives' satisfaction."

"In Conley's testimony as to where and how he spent the latter part of Saturday, you find that he mentions only two specific times, 12:56 o'Clock and 1:30 o'Clock. At the former time, he says he was called by Frank and at 1:30 he says he left the Factory, to begin his wandering homeward, stopping at wayfaring places of refreshment. The rest of his time he determines by the sequence of passing people. You notice that in one of the first Affidavits, he said he left home at 9:30 o'Clock, but after some of the people whom he swore he saw said they were at the Factory at 9 o'Clock, he changed his Affidavit and said he left home at 8:30 o'Clock. He never hesitated to transport himself from one place to another to make himself fit in, as he passed through his Channel of Perjury, that meant hell for somebody."

REASON FOR CHARGE.

“Finally this apt scholar decided to make Frank a pervert in order to make the rest of his story plausible.”

The Governor here asked:

“Why was it, Mr. Howard, that Conley should attribute unnatural rather than natural tendencies to Frank?”

Mr. Howard replied:

“Probably because in his mind he realized that such a charge would in itself be damning to the man he was trying to hang, and that Charge has never been in any way proved.”

“Grant that a charge of lasciviousness has been proved, just for the sake of Argument, that still does not prove perversion.”

“One is an abomination that God has destroyed not only people but whole Sections of the earth to get rid of, while the other is something that it takes all the Laws and all the Religion to restrain the ordinary man from.”

Here the Solicitor interrupted:

“How could we have proved it, Mr. Howard?”

Mr. Howard replied:

“Well, I am here to tell you that if you couldn’t prove it, you should not convict him of it. That is one of the troubles with your Case. You have relied entirely too much on suspicion and on such abominable Charges as this.”

“We have talked about Conley! Now, let’s talk a little about Dalton. He came from Walton County. He started out as a young man by stealing a harrow from a field. Next, he stole corn from the field. Next, he stole a Bale of Cotton from a field. Next, we hear of him selling liquor, in violation of the Law.”

“The white man in our Country who loses his character fastest and loses it most irretrievably is the young man who steals the exposed property of his neighbor.”

“Next, we hear of Dalton joining the Church and his neighbors in good faith accepted his protestations of repentance and lent him a helping hand, believing he was sincere in his announced purpose to reform his life. Next, he comes into public notice when, by his own lips, he testifies to having frequented the Pencil Factory basement for immoral purposes and brazenly says he paid Jim Conley 25 cents for the privilege. That’s Dalton. And even in his testimony Dalton does not charge that Frank is a pervert.”

“When you come to talk about what is the evidence against this man, that’s it. Dalton and Conley.”

Mr. Howard at this point went into an exposition of the testimony given by Dalton, which was of an unprintable nature. He insisted the Charge of Perversion against Frank was the vital point around which the Charges against him revolved and was the very pith of the State’s Case.

“Therefore,” said he, “we must not allow our modesty to prevent us from discussing it. We must examine it to ascertain its value.”

After discussing this testimony at length, Mr. Howard read to the Governor the dissenting opinion of two Justices of the Supreme Court of Georgia in which they held that the testimony relating to perversion should not have been admitted as evidence; that it was wholly irrelevant to the Case at issue; that even if it were true it dealt with acts not connected with the Case; that it was of such a character as to be prejudicial and calculated

to bias the minds of the Jury, and that it should have had no place in the trial.

COURSE OF THE LAWYERS.

He took up and discussed that part of Mr. Dorsey's Argument in which he stressed the Fact that Attorneys Rosser and Arnold, representing Frank, failed to cross examine the several young women who testified as to Frank's bad character. He said:

"You can't wipe out that stain when you once let it in before the Jury. Frank's Lawyers were acting with wisdom and prudence when they decided not to pursue it further. Had they cross-examined these young women, the latter could have said that they had heard this and heard that; and believe me, they could have heard a great many things between the time the crime was committed and the time of the trial. It would have been very difficult indeed for them to recall just when they heard these things. Then, when they were being prepared by the State for their Examination, they could have been told that it would be well worth while, for them to think up and call to mind all that they had heard, as no doubt they would be asked about it. In my opinion, Mr. Rosser and Mr. Arnold could have come to no wiser Decision than not to cross-examine these Witnesses."

Turning and looking at the Solicitor, Mr. Howard said:

"Shall it be a thread, even a Gossamer Film, in the cable my friend Dorsey wants to construct, to take the place of legal testimony?"

Mr. Howard next discussed the testimony of Monteen Stover, who said she looked at the Clock when she arrived at the Pencil Factory on the day of the murder, and the hands pointed to 12:05, and that she observed the Clock again when she left, and the time was 12:10.

“Now the talk about the Clock being incorrect,” he said. “It makes no difference whether the Clock showed the correct time or not. If it was 12:05 when she arrived and 12:10 when she left, and she observed the time by the same Clock, there was a five-minute interval.”

“Miss Stover testified that she did not see Frank. I am going to show your Excellency that whether she saw him or not makes no difference in the world so far as he is concerned; that it is not worth talking about. He could not have been killing Mary Phagan then, because Mary Phagan was not there. When you go through the time testimony in this Record and work it all out, you will find that Mary Phagan got to Frank’s Office after Monteen Stover left. It was testified that she got off the car at 12:07 1-2, and that it took her about 4 1-2 minutes to walk to the Factory. This would put her at the Factory at 12:13. She missed Monteen Stover because Monteen was out and gone.”

Here the Governor remarked:

“It is my recollection that Conley testified that when he was put in the closet, Corinthia Hall and Emma Freeman came in. My recollection is that they testified that they got to the Factory at 11:30. Is there any dispute about this point?”

The Solicitor was quickly on his feet and informed the Governor that the State “paid no attention to the testimony of Emma Freeman and Corinthia Hall. “We did not pin our Case to that.”

Mr. Howard interposed:

“But Conley testified that after the murder, and while he was in Frank’s Office to write the notes, Emma Freeman and Corinthia Hall came, and he was put in the wardrobe while they were in the Office. This, according to Conley, was after the murder was

committed, but, according to their testimony, it was before the murder was committed and before Mary Phagan left home.”

DORSEY’S REPLY.

To this Solicitor Dorsey replied:

“Conley didn’t see them. He took Frank’s word for it. However, we didn’t rely on the testimony of these young women. We used the testimony of a Witness who came on the car with Mary Phagan and that she left the car at 12:02. This would put her at the Pencil Factory just before Monteen Stover arrived there.”

Mr. Howard repeated:

“But you must remember that Conley testified that Frank put him in the wardrobe to hide him from Miss Hall and Miss Freeman. At that time, according to Conley, Mary Phagan had already been killed, and he was up in the Office writing the murder notes. They did go to the Factory at 11:35 and did talk with Frank. The Record shows that. As I remarked, a little while ago, in all of Conley’s conflicting story, he only fixes two points of time. Everything else he fixes by sequence. According to Jim, the murder had been committed before Mary Phagan ever left her home.”

Solicitor Dorsey interrupted.

“We undertook to break the force of that by the testimony of Lemmie Quinn as to the time he met Emma Freeman and Corinthia Hall on the street. We hotly contested this point.”

Mr. Howard resumed:

“Let it be hotly contested. We leave it to the Record to tell the truth. We can’t change the Record. We must stand or fall by it and it alone.”

Governor Slaton stopped Mr. Howard to inquire of the Solicitor whether by examining the testimony of Quinn, he would be able to ascertain how the testimony of Miss Hall and Miss Freeman was controverted.

Solicitor Dorsey informed him that he would.

It was now 6 o'Clock. Governor Slaton announced that he would go on with the Hearing or adjourn until Wednesday morning at 9 o'Clock. He said he had to go to Athens Tuesday and deliver an address at the University of Georgia commencement. After some Consultation, it was agreed on both sides to adjourn until 9 o'Clock Wednesday morning. He also announced that he would take with him the Record and some of the other Papers in the Case, to read on the Train riding to and from Athens, and during whatever spare time he had while in Athens.
